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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS LEROY HENNAGAN,

Defendant and Appellant.

C054732

(Super. Ct. No. 06F06563)

On June 28, 2006, the Sacramento Police Department received a report that defendant Thomas Leroy Hennagan's 13-year-old biological daughter was two months pregnant and that defendant had impregnated her. Both defendant and his daughter admitted they had engaged in sexual intercourse with each other.

Defendant pled no contest to engaging in lewd and lascivious behavior with a child under the age of 14. He was sentenced to the upper term of eight years in prison. The

imposition of the upper term was a stipulated sentence, expressly agreed to by the defendant.<sup>1</sup>

Defendant was awarded 235 days of presentence custody credit (157 actual days and 78 good conduct days). He was also ordered to pay a \$1,600 restitution fine, a parole revocation fine of \$1,600 which was suspended unless parole is revoked, a main jail booking fee of \$213.37, a main jail classification fee of \$23.50, a \$20 court security fee, and was ordered to provide DNA samples.

Defendant appeals. He did not seek or obtain a certificate of probable cause. (Pen. Code, § 1273.5.)

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no

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<sup>1</sup> Although the upper term was part of a stipulated sentence, at sentencing the court also indicated it selected the upper term because of the "nature of the offense" and his numerous prior convictions. Dating back to 1981 and continuing through 1999, those prior convictions include 11 prior misdemeanor convictions and six felony convictions. Defendant was on parole at the time of his arrest.

arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

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ROBIE, J.

We concur:

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MORRISON, Acting P.J.

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HULL, J.